NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II

Hearing Through: VC and Physical (Hybrid) Mode

CORAM: SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER (J)
CORAM: SHRI. SANJAY PURI, - HON'BLE MEMBER (T)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL, HYDERABAD BENCH, HELD ON 01.02.2024 AT 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	**IA (IBC)/1889/2023 in Company Petition IB/302/2022**
NAME OF THE COMPANY	
NAME OF THE PETITIONER(S)	**Bank of Baroda**
NAME OF THE RESPONDENT(S)	**G. Praveen Kumar**
UNDER SECTION	**95 of IBC**

ORDER

IA (IBC)/1889/2023

Orders pronounced, recorded vide separate sheets. In the result, this application is allowed.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)

Apoorva

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – II

IA NO.1889 OF 2023
in
CP (IB) No. 302/95/HDB/2022

[Repayment Plan U/s 112(1) Insolvency & Bankruptcy Code, 2016 and Regulation 19(1) of the IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019]

In the matter of Bank of Baroda vs. G. Praveen Kumar, Personal Guarantor to M/s. VNR Infrastructure Limited

Mr. Kedari Narsimha Rao
Resolution Professional of
M/s. VNR Infrastructure Limited

… Applicant

Date of Order: 01.02.2024

Coram:

Hon'ble Shri. Rajeev Bhardwaj, Member (Judicial)
Hon'ble Shri Sanjay Puri, Member (Technical)

Counsel/Parties present:

For the Applicant : Mr. Kedari Narsimha Rao, Resolution Professional

[PER: BENCH]

O R D E R

1. The instant application has been filed by the Resolution Professional of M/s. VNR Infrastructures Limited, inter alia, seeking the following reliefs:

a) To condone the delay of 34 days in submission of report under Section 112(1).

b) To pass necessary orders in view of the rejection of the repayment plan by the creditors.

c) To pass necessary orders to the creditors for payment of Resolution Professional fee and expenses of Rs.6,75,000/- as already approved by the creditors.

2. The Company Petition bearing CP(IB) 302/95/HDVB/2022 filed by Bank of Baroda, under Section 95 of Insolvency & Bankruptcy Code, 2016 against Mr. G. Praveen Kumar was admitted by this Adjudicating Authority, vide order dated 30.01.2023 by appointing Mr. Kedari Narsimha Rao, as Resolution Professional (RP). The communication was received by the RP only on 09.02.2023.

3. On 14.02.2023, the RP submitted his report under section 99 of IBC, 2016, vide IA(IBC)/333/2023 before this Authority, which was admitted on 19.06.2023. On 01.07.2023, the RP made a public announcement in Financial Express (English) and Mana Telangana (Telugu Daily) inviting claims from the stakeholders to be submitted by 22.07.2023. In response, claims have been received from 7 Nos. of creditors amounting to Rs.2591,98,58,558.55 and the total amount of claims admitted was Rs.2185,84,33,967.56.

4. It is averred that on 05.08.2023 with the consultation of Personal Guarantor (PG), RP has prepared and submitted the repayment plan envisaging the repayment of Rs.20,00,000/- to creditors and Rs.5,00,000/- towards insolvency resolution process costs, payable in one installment in the month of February, 2024. On 09.08.2023, RP filed his report under Section 106(1) of IBC, 2016, vide IA (IBC)/1371/2023, which was taken on record by this Authority on 22.08.2023.

5. It is averred that as the repayment plan submitted by the RP does not have reasonable prospect of being approved, hence, a necessity for summoning the meeting of creditors to consider the repayment plan arose. The first meeting of creditors was convened on 24.08.2023.

6. In the 2nd creditors meeting held on 31.08.2023, the creditors with a majority of 80.19% resolved to appoint M/s Advarisk, Mumbai, a private detective agency, to trace the unencumbered assets, if any, in the name of the debtor. On 10.10.2023, M/s. Advarisk submitted its report and the same was circulated by the RP amongst all the creditors.

7. In the 3rd meeting of the creditors held on 12.10.2023, it was decided to seek voting on:

a) Repayment plan dated 05.08.2023 submitted by the debtor envisaging the repayment of Rs. 20,00,000/- to creditors and Rs.5,00,000/- towards Insolvency Resolution Process Costs, payable in one instalment in the month of February, 2024.

b) If the voting item on Repayment Plan is disapproved, to approve the Resolution Professional's fee at Rs.50,000/- per month with effect from 06.02.2023 plus out of pocket expenses. The RP's fees and out of pocket expenses are estimated to be Rs. 6,75,000/- till completion of 180 days of insolvency commencement i.e. till 24.12.2023.

8. The resolutions proposed for voting at the meeting and decision on the said resolutions are tabulated as below:

S.No	Voting Item	Appro -ved (%)	Disap-proved (%)	Not voted (%)
1	Agenda Item No.5 (a) "Resolved to approve the Repayment plan submitted by the Personal Guarantor- Ganji Praveen Kumar envisaging repayment of Rs. 20 Lakhs plus resolution process expenses of Rs. 5 Lakhs payable in one instalment in the month of February, 2024	**0**	**88.52**	**11.48**
2	Applicable only if Agenda Item No. 5 (a) "Resolved to approve the Resolution Professional's fee at Rs. 50,000/- per month with effect from 06.02.2023 plus out of pocket expenses. The RP's fee and out of pocket expenses are estimated to be Rs. 6,75,000/-till completion of 180 days of insolvency commencement i.e., till 24.12.2023.	**64.02**	**24.50**	**11.48**

9. The Resolution Professional has prayed for condoning the delay of 34 days under Section 112(1) in view of the delay in approval of the repayment plan as the creditors of the company have requested the Resolution Professional to extend voting time as they were yet to obtain approvals from their respective competent authority. At the request of the creditors, the voting time was extended upto 27.10.2023 and further extended till 27.11.2023. Finally, the voting was concluded on 27.11.2023 and this extension of date has resulted in a delay of 34 days in complying with this requirement.

10. We have heard the Learned RP, Mr.Kedari Narsimha Rao and perused the record.

11. In view of the facts and circumstances mentioned above, we hereby condone the delay of 34 days i.e. for the period from 24.10.2023 to 27.11.2023 arose in view of the delay in approval of the repayment plan.

12. As far as approval of the Repayment Plan submitted by the Personal Guarantor is concerned, the repayment plan placed before the 3rd creditors meeting held on 12.10.2023 was rejected by the Creditors with 88.52% and the remaining 11.48% did not exercise their vote.

13. Considering the report of the Resolution Professional filed u/s. 112 and rejection of the Repayment Plan by the creditors, the creditors shall be entitled to file an application for Bankruptcy under Chapter IV consequent to the rejection of the Repayment Plan. The RP stands discharged. Since the Creditors have approved the payment of Resolution Professional fee and expenses with 64.01% voting share, the Resolution Professional fee and expenses of Rs.6,75,000/- as already approved by the creditors shall be paid.

14. With the above directions, IA 1889/2023 is hereby allowed and stands disposed of.

Sd/-	**Sd/-**
SANJAY PURI **MEMBER (TECHNICAL)**	**RAJEEV BHARDWAJ** **MEMBER (JUDICIAL)**

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